

1762.

proper Number of Musquets not exceeding Two hundred, and a proportionable Quantity of Ammunition should be given them out of Your Majestys Stores in this Kingdom, which the said Lords Commissioners apprehend will be necessary for their Support and Defence.

[The stores are to be delivered to Mr. John Challie, merchant, to be shipped on the same vessel which carries the settlers, that they may be distributed amongst them on their arrival.] [III. pp. 151-4.]

2 June. [482.] [Reference to the Committee of the petition of
Nova Scotia, James Major of Guernsey, for himself and James Le Roy of the same island, merchant, owners of the cargo of the snow *Two Brothers*, and of Nicholas Le Mesurier of the same island, late master of the said snow, for the owners James and John Le Roy, for a day for hearing their appeal from the condemnation of the vessel in the Vice Admiralty Court at Halifax, 23 Sept., 1761, at the instance of Henry Newton and Thomas Burnet.] [p. 250.]

(1763.) [On the Committee report of 12 March, the sentence is
16 Mar. reversed, and ship and cargo ordered to be restored. The case was heard *ex parte*, no appearance having been made for the respondents. The petition set forth] that the said Snow *Two Brothers* is Plantation Built, was duly registered and regularly manned and navigated according to Law and in May 1761 landed at Guernsey, a Cargo of Wine (part whereof was Prize) some Brandy, Cyder, and Stockings the produce and Manufacture of Guernsey, and other things for Quebec and for such Goods as were Prize, the proper Certificate was obtained. That the said Snow sailed on the 17th of May, but being by contrary Winds obliged to put into Plymouth, and finding the *Antelope* Man of War, Captain Le Mesurier put himself under her Convoy and was regularly searched paid the Port and other Charges, and Searchers Fees obtained the usual Permit and Sailed with the *Antelope*, as far as the Banks of Newfoundland, and then steered the most direct course for the River St. Lawrence, and on the 19th of July

1761 arrived at the Isle of Beck in the said River, but was prevented going higher by contrary winds whereupon the Appellant Major went on Shore, and by Land to Quebec and waited on General Murray to know whether he would permit the Cargo to be landed who answered, Major might Land all the Cargo (Brandies excepted) whereupon Major agreed with one John Wynne of the Dolphin to come to the Isle of Beck for unloading the Snow of her Cargo (Brandys excepted) and on the 29th of July General Murray gave Wynne a Pass for that purpose and that Wynne went down and the Snows Cargo (Brandys excepted) on the 1st of August, began to be unloaded into his Sloop, when Captain Burnett of the Rochester Man of War came on board, and forceably seized the Snow and her Cargo, though at same time he was acquainted with the Reason of unloading and shewn General Murrays permission and detained the Snow and her Cargo and that Captain Burnett carried her and her Cargo, out of the Jurisdiction where he seized her, to Halifax in Nova Scotia, And that on the 8th of September 1761 Henry Newton . . exhibited a Libel against the Snow and her Cargo in the Vice Admiralty Court at Halifax . . and . . prayed an Order for the Snow and Cargo to be taken into Custody of the Marshall of the Court, and that the Snow was taken into the Marshall's Custody accordingly, and on 9th September, the Appellants, Major and Le Mesurier, claimed Ship and Cargo, and put in their answer to the Libel, insisting that the above Acts do not prohibit the importation of the growth, Production or Manufacture of Europe, in Ships properly Navagated into any of His Majestys Dominions subdued by Conquest for that during the present War Canada is not within the meaning of the Statutes, His Majesty not being restrained to rule it by any particular Laws, but according to his pleasure, and that the Government of Canada had, from its conquest, been under the terms of Capitulation by such Proclamations, Military Rules, Orders, and Regulations as his Majestys Governor there had thought proper for the Service of His

1762.

Majesty. That the General not only permitted the Importation of the Snow's Cargo (Brandys excepted) but the Sale thereof, and that if it had been his Majestys Pleasure that the Acts of Trade should extend to this new Conquest, the General would have been sworn to the observation thereof And that the Snow took in her loading at Guernsey a free Port, where there is no Custom house Officer granting Coquets or clearances, and pursued the usual methods in loading the said Vessel. And that the Captain did on his arrival at Plymouth, report to the Custom house there, his whole Cargo, as in the Bill of Loading mentioned, and paid all the fees in the Port, And that there was no breaking of Bulk, or importation of any of the Cargo of the Snow, until the above permission (vizt.) 1st of August 1761, and within the Jurisdiction of His Majestys Governor at Quebec and its dependencys, and not within the Jurisdiction of the Court of Halifax, And that the Cause being at Issue, Captain Burnett on his Examination declared, that seeing the Sloop Dolphin along side the Snow, he went on board and was told they were unloading Wines out of the Snow into the Sloop by General Murrays Orders, which were produced to him, together with the Light house Bill from Plymouth, and the Snows Register and other papers, and on his Cross Examination declared he did not see the Bulk broke before the first of August, but brought before that time, four dozen of Claret and three of Pruniac, and one of his Lieutenants told him the Master had informed him, they had been obliged to scuttle the Decks to get them. And that George Forbes Master of the Rochester, being examined confirmed the Captains Evidence, and said he had heard of some dozens of Wine coming on board the Rochester; That Captain Burnett did not tell him he seized the Snow for that Reason nor did he so understand it himself. That he heard the Master of the Sloop tell Captain Burnett he had orders from General Murray to take out of the Snow all her Cargo (Brandys excepted) and carry them to Quebec and that on behalf of the Appellants sundry witnesses were

1762.

examined, who deposed as before stated, And that on the 23rd of September 1761 [the Judge decreed the ship and cargo forfeited] and ordered the same to be sold at publick Sale by the Marshall of the Court, or his Deputy, having first been duly appraised . . And that the Snow and her Cargo have been Sold pursuant to the Sentence, and the Nett proceeds thereof amount to the Sum of 3,178*l.* 12*s.* 7 $\frac{1}{4}$ *d.* Nova Scotia Currency. [pp. 446, 523-6, 535.]

[483.] [On a petition of the principal merchants of Albany, N.Y., to the Board of Trade,] Setting forth that since the Conquest of Niagara, his Excellency Sir Jeffery Amherst has Granted Ten thousand Acres of Land at the Niagara carrying Place to Captain Rutherford, Lieutenant Duman and others who have already Settled thereon ; That such Settlement will not only reduce Thousands of his Majestys Subjects to want by Monopolizing the Indian Trade, but will also be of the greatest prejudice to his Majestys Interests and the Welfare of his Colonies by giving offence to the Confederated Nations of Indians ; The Lands so Granted being part of those reserved to the said Indians for their Hunting Grounds by the Solemn Treaty of 1726 ; [and on the representation of the Board of Trade] that they have Considered the Allegations contained in the said Petition, but as they have not Received from any of his Majestys Officers in America or other Person whatever any Information respecting such Grant or Settlement as the Petitioners Alledge to have been made and as they do not know of any Authority given to Sir Jeffery Amherst to Grant Lands in those parts, they are therefore inclined to hope that the Petitioners have proceeded upon Misinformation and mistake, but in Case it should appear upon Enquiry that such Grant and Settlement have actually been made, the said Lords Commissioners do agree that it will be productive of many mischievous and dangerous Consequences and therefore proposed that his Majestys Royal Orders should be immediately dispatched requiring the said Settlers forthwith to quit and remove from

19 June.
Niagara.